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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/807,869	04/19/2001	Rob Pieterse	01176/LH	6265
1933	7590	07/13/2005	EXAMINER	
FRISHAUF, HOLTZ, GOODMAN & CHICK, PC 220 5TH AVE FL 16 NEW YORK, NY 10001-7708			FISH, JAMIESON W	
			ART UNIT	PAPER NUMBER
			2617	

DATE MAILED: 07/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/807,869

Applicant(s)

PIETERSE, ROB

Examiner

Jamieson W. Fish

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 April 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 April 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement (IDS) submitted on 19 April 2001 has been considered by the examiner.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims **1-4** are rejected under 35 U.S.C. 102(b) as being anticipated by Payton (US 5,790,435.)
4. Regarding claim 1, Payton teaches a system for the distribution of audio and video files, comprising a central database with audio or video files (See Fig. 2 Repository 34 and Col. 4 lines 44-60), local processing means for processing and playing of such files (See Fig. 2 Playback device 32 and Col. 4 lines 44-54) and a transmission network for the transmission of such files from the central database to the local processing means (See Fig. 2, Fig. 9 and Col. 4 lines 44-54), characterized by a processor for selecting a collection of files from the database by means of a selection algorithm and storing that selection in a selection file (See Fig. 2 Scheduling Processor 46 Col. 5 lines 6-45), as well as for transferring, via the transmission network to the local processing means of a subscriber, replica's of both the selection file and the selected files themselves, the local selection means being able to play the selected files via

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playing means, under control of the selection file (See Col. 5 lines 55-67, Col. 6 lines 1-50). ✓

5. Regarding claim 2, Payton teaches the system characterized in that the processor periodically replaces, under control of a refreshing algorithm, part of the collection of selected files by files which are selected once again from the database (See Col. 6 lines 51-67, Col. 7 lines 1-12).

6. Regarding claim 3, Payton teaches the system characterized in that the processor selects, on the basis of one or more selection algorithms, different collections of files and stores these selections in different selection files, which are transferred to the local processing means via the transmission network (See Col. 6 lines 26-31 The user has a list of recommended items and a list of other items), the local processing means comprising a local selection device for selecting, according to the desire of the subscriber, one of those different selection files (See Col. 6 lines 26-31 There is a list of recommended items and a list of other available items).

7. Regarding claim 4, Payton teaches the system characterized in that the local selection device stores consecutive choices made by the subscriber, in a log file, the processor reading out the selections stored in the local selection device and periodically replacing part of the collection of selected files by files selected once again from the database (See Col. 6 lines 40-67, Col. 7 lines 1-12 User profiles which include information about which items were used are sent to the central distribution server this information is used to send a user an updated list).


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamieson W. Fish whose telephone number is 571-272-7307. The examiner can normally be reached on Monday-Friday, 8:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's primary, Ngoc Vu can be reached on 571-272-7320. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JF 6/28/2005



NGOC-YEN VU
PRIMARY EXAMINER